



UNITED STATES SMALL BUSINESS ADMINISTRATION  
409 THIRD STREET, S.W.  
WASHINGTON, D.C. 20416

September 29, 2015

The Honorable Leonard D. Wexler  
United States District Judge  
United States District Court  
for the Eastern District of New York  
Long Island Federal Courthouse  
Central Islip, NY 11772

Re: Civil Case No. 13-cv-1326 (LDW)  
United States of America v. Elk Associates Funding Corp.  
Request for Waiver of Pre-Motion Conference

Dear Judge Wexler:

I am writing as counsel for the United States Small Business Administration (“SBA”) as the court appointed Receiver (“Receiver”) of Elk Associates Funding Corporation (“Elk”). On behalf of the Receiver, I am respectfully requesting that Your Honor’s Pre-Motion Conference requirement as set forth in Your Honor’s Individual Practices Rule 2(B) be waived and that the Receiver be allowed to move this Court for an Order Compelling the Production of items that were subpoenaed on or about March 10, 2015 and that have yet to be produced.

The proposed motion is necessary in order for the Receiver to reconcile the books and records of Elk, which show that the receivership estate is owed over \$12 million from its parent company, AmeriTrans Capital Corp. (“AmeriTrans”). The subpoena was duly served upon AmeriTrans and its responses and objections were received by the Receiver on or about March 24, 2015. Although AmeriTrans had at one point agreed to produce at least four (4) of the eighteen (18) items requested by Elk, they have failed to do so. As late as September 17, 2015, the Receiver offered to help AmeriTrans, which moved from Long Island to Boston in 2014, look through its records to identify responsive documents, but has received no response from AmeriTrans. On September 25, 2015, undersigned counsel contacted counsel for AmeriTrans via email and informed him of the potential for the filing of this letter today. No response has been received.

For these reasons, the Receiver requests (1) a waiver of the Pre-Motion Conference and (2) approval to file a Motion to Compel Production of Documents against AmeriTrans Capital Corp. Thank you for Your Honor’s consideration of this request.

Respectfully yours,  
U.S. Small Business Administration as  
Receiver for Elk Associates Funding Corp.

s/ Arlene M. Embrey

Arlene M. Embrey  
Trial Attorney

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